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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,321	09/12/2003	Avigdor Eldar	P16496	7907

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BUCKLEY, MASCHOFF & TALWALKAR LLC  
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NEW CANAAN, CT 06840

EXAMINER
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KHATRI, ANIL

ART UNIT	PAPER NUMBER
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2191

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/661,321

Applicant(s)

ELDAR, AVIGDOR

Examiner

Anil Khatri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/12/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Specification*

The abstract of the disclosure is objected to because it is not detailed and descriptive.

Correction is required. See MPEP § 608.01(b).

### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

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- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the

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international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-26 are rejected under 35 USC 101 because they disclose a claimed invention that is an abstract idea as defined in the case *In re Warmerdam*, 33, F 3d 1354, 31 USPQ 2d 1754 (Fed. Cir. 1994).

*Analysis:* Claims 1-26 disclosed by the applicant as being a “method and apparatus...”. Since the claims are each a series of steps to be performed on a computer the processes must be analyzed to determine whether they are statutory under 35 USC 101.

Examiner interprets that claims 1-26 are non-statutory because claim recites computer program product are program, per se i.e. the description or expressions of the program are not physical things nor are they statutory process as they do not act being performed and un able to prude any useful and concrete results. Computer programs do not define any structural and functional interrelationship between the computer program and other claimed aspect of the invention which permits the computer program’s functionality could be realized. Therefore, computer program is

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merely a set of instructions capable of being executed by a computer, the computer program itself is not a process.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 and 12-25 are rejected under 35 U.S.C. 102(e) as being anticipated by *Dice* USPN 6,877,088.

Regarding claims 1, 13, 23 and 25

*Dice* teaches,

determining that a first software component is to use a device, the device being shared with a second software component (column 11, lines 1-20, Other embodiments of the invention that

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are disclosed herein include software programs to perform the method embodiment steps and operations summarized above and disclosed in detail below. One such embodiment comprises a computer program product that has a computer-readable medium including computer program logic encoded thereon that, when performed in a computerized device having a coupling of a memory and one or more processors, programs the processor(s) to perform the operations disclosed herein as embodiment of the invention. Such arrangements of the invention are typically provided as software, code and/or other data (e.g., data structures) arranged or encoded on a computer readable medium such as an optical medium (e.g., CD-ROM), floppy or hard disk or other a medium such as firmware or microcode in one or more ROM or RAM or PROM chips or as an Application Specific Integrated Circuit (ASIC). The software or firmware or other such configurations can be installed into a computerized device to cause the computerized device to perform the techniques explained herein as embodiments of the invention); and arranging via information stored at the device to use the device when the second software component is not using the device (column 12, lines 38-55, by way of example, consider a computerized device having first and second processors which collectively operate as a multiprocessing computing system environment that allows concurrent execution of code on each processor at the same time. Each processor may be configured with a speculative execution controller configured according to one embodiment of the invention. The speculative execution controllers can reside as components (i.e., as circuitry) within each processor. One speculative execution controller can detect an access, by a first processor, to a page table entry of a page table associated with the first processor and can retrieve the access to the page table entry. To do so, in one example, the speculative execution controller

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can utilize a MESI cache coherency protocol to snoop a memory bus coupling the processors and a memory system in order to detect accesses to (e.g., loads of) page table entries which the first processor performs to update its translation look aside buffer entries.).

Regarding claims 2, 4, 14 and 16

*Dice* teaches,

a first component flag (column 10, line s7-15, “in response to... flags, bits),  
a second component flag (column 18, lines 30-35, “the speculation indicator... in the processor),  
and a turn flag (column 19, lines 44-49, “the speculation indicators... bits and flags or other data...),  
wherein the first and second component flags can indicate free or busy and the turn flag can indicate first component or second component (column 20, lines 26-32, “after the processor... the first processor).

Regarding claims 3 and 15

*Dice* teaches,

the first and second component flags are initialized to free (column 18, lines 25-35, “for address based... in the processor).

Regarding claims 5-9, 17-19 and 20-21

*Dice* teaches,

waiting until either the second component flag is free or the turn flag is first component before using the device (column 22, lines 45-60, figures 1-2, the speculation execution...MESI protocol).



Regarding claims 10,12, 22 and 24

*Dice* teaches,

the device comprises at least one of a network adapter, and a disk controller (column 11, lines 5-20).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Dice* USPN 6,877,088 in view of *Boneh et al* USPN 6,134,660.

Regarding claim 11 and 26

*Dice* teaches

Software components (see reference) but does not teach explicitly the device comprises a network controller, comprises a network driver, and comprises an encryption driver. However, *Boneh et al* teaches (figures 2-5, column 6, lines 25-50, the key file 204 is stored on the file system 201. Without the keys stored in the key file, the stored, encrypted backup files 206 cannot be decrypted. If the file 201 system crashes, the key file 204 may be lost with other files 202. For this reason, the key file 204 should also be backed up as would any other important file on the computer system. However, the file 204 cannot be written to a backup tape "as is", e.g., unencrypted. If so, the key file and encryption keys stored therein remain available on the backup tapes for as long as the backup tape physically exists. As a result, the encryption keys

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are not "lost" and the corresponding encrypted backup files 206 may be accessed. Thus, a preferred embodiment of the present invention generates a master key during a backup.

Referring to FIG. 2, the master key is used by the encryption device 210 to encrypt the key file 204 before the key file is backed up. The encrypted key file 208 is then stored on the backup tape. The master key itself is not written to the backup tape. Thus, to revoke encrypted, backed up information, both the encryption key used to encrypt the file 202 and the master key used to encrypt the key file 204 should be "lost". Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate encryption method and driver for protection. The modification would have been obvious because one of ordinary skill in the art would have been motivated to combine teaching into software component with encryption so that they are protected in distributed environment.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**ANIL KHATRI**  
**PRIMARY EXAMINER**